

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

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|--------------------------|-----------------------------|
| UNITED STATES OF AMERICA |) UNDER SEAL |
| |) |
| v. |) Criminal Number 05-MJ-440 |
| |) |
| JOSE DANIEL GUARDIA, |) |
| |) |
| Defendant. |) |

Affidavit in Support of a Criminal Complaint and an Arrest Warrant

I, Pamela Bombardi, after being duly sworn, depose and state:

1. I am a special agent employed by the Federal Bureau of Investigation (FBI), United States Department of Justice. I have been so employed for more than fifteen years and am currently assigned to the Northern Virginia office of the FBI's Washington Field Office. My primary duty as an FBI special agent is to investigate allegations of public corruption, fraud against the government, and obstruction of justice.

2. This affidavit contains information necessary to support probable cause for this application. It is not intended to include each and every fact and matter observed by me or known by the government. The information provided is based on my personal knowledge and observations, information conveyed to me by other law enforcement officials, and my review of records, documents and other physical evidence obtained during the investigation of this case.

3. This affidavit is submitted in support of a criminal complaint and arrest warrant charging Jose Daniel Guardia (Guardia) with conspiracy to commit identification document fraud in violation of 18 U.S.C. § 1028(a)(1), (b)(1)(A)(ii), (c)(3)(A), and (f).

The Law

4. Pursuant to 18 U.S.C. § 1028(a)(1), (c)(3)(A), and (f), it is a violation of federal law to conspire to “knowingly and without lawful authority produce[] an identification document,” including a state driver’s license, if such production would be in or affect interstate or foreign commerce. Pursuant to 18 U.S.C. § 1028(b)(1)(A)(ii) and (f), the penalty for this offense is a maximum of fifteen years imprisonment if the offense involved the production of state driver’s licenses.

Summary of the Investigation

5. For the past four months, agents of the Virginia Department of Motor Vehicles (DMV), the Diplomatic Security Service of the United States Department of State, and I have investigated allegations of corruption within the DMV office in Springfield, Virginia. The investigation revealed that Jose Daniel Guardia is a middleman in a conspiracy with a DMV employee to sell genuine Virginia driver’s licenses to applicants without proper documentation in return for a fee of \$3,500. Based upon investigation, I believe that the unqualified applicants to whom Guardia sells the licenses are immigrants unlawfully in the United States or individuals whose driving privileges have been suspended. I believe that Guardia, whose license is suspended, also has fraudulently obtained genuine Virginia driver’s licenses without proper documentation.

The Virginia Department of Motor Vehicles

6. The Virginia DMV is an agency of the Commonwealth of Virginia charged with the registration and regulation of motor vehicles within the Commonwealth. In carrying out its responsibilities, the DMV maintains offices in cities and counties throughout the state to serve

the general public. These offices, known as customer service centers, are open from Monday through Saturday and are staffed by DMV employees.

7. One of the Virginia DMV's primary responsibilities is the provision of Virginia driver's licenses, learner's permits, and identification cards to qualified Virginia residents. This responsibility is largely carried by DMV clerks in customer service centers by means of a written application. The process depends heavily on the use of the Virginia DMV computer database, and every application is entered into and recorded by the database. Only authorized DMV employees may access the database, and each time the employee enters the system he or she must enter a unique user name and password. All DMV employees who use the database are trained and required to use their user names and passwords in a secure and confidential manner.

8. In order to apply for an original Virginia driver's license, an applicant must go to a Virginia DMV office, submit a driver's license application (formally known as a DL-1M) to a DMV clerk, and pay the DMV a fee. Before the clerk may issue the applicant a license, the clerk must review the application to confirm the applicant's eligibility and note the reason for the application—that is, whether the application is for an original license, a renewal, a duplicate license, or a re-issuance. If the applicant seeks an original Virginia driver's license on the ground that he or she possesses valid driving privileges in another state, the applicant must surrender his or her out-of-state license to the clerk. If the applicant seeks a duplicate or reissued license, the clerk must note the reason for the duplication or re-issuance on the application.

9. An applicant for an original license who surrenders a valid license from another state may use the surrendered license as proof of identification and does not have to take the written driver's examination or participate in a road test. If an applicant for an original license does not have a valid license from another state to surrender, the DMV requires the applicant to present

two forms of identification and take the written examination and the road test. The clerk who handles an application based on a surrendered license is required to note both the name of the issuing state and the license number on the DL-1M and in the DMV computer database.

10. If the clerk handling a given application approves it, the clerk must stamp the application. This stamp records the identity of the clerk, the location of the DMV office, and the receipt of the relevant fee. Once this clerk approves and stamps the application, another clerk photographs the applicant and issues him or her a license. The applicant's photograph, an electronic version of the applicant's signature, and other relevant pieces of information, including the approving clerk's identity, are entered into the DMV computer system creating a permanent record of the application, the applicant, and the issued license.

Jose Daniel Guardia

Background

11. Jose Daniel Guardia is a citizen of Bolivia who last entered the United States in 1997 on a tourist visa. Guardia's visa has since expired, and he is currently in the United States illegally. Guardia is not known to have steady employment, although I believe he occasionally works at construction sites. As discussed in more detail below, Guardia has used at least six other aliases over the past five years: Daniel L. Guardia, Lopaz D. Guardia, Ernesto Guardia Lopez, Ernesto Peredos, Jaime Crespo Cabrera, and Demetria Heredia. He also has two outstanding warrants from Arlington County for his arrest, and an arrest warrant is outstanding in Spotsylvania County in the name of one of Guardia's aliases. _____

Six Suspensions of His Valid Virginia Driver's License

12. On September 14, 1998, Guardia applied for and received a Virginia driver's license at the DMV office in Arlington, Virginia (hereinafter the 1998 license). Guardia's 1998 license

was suspended numerous times for various traffic offenses and convictions of non-traffic violations. Specifically, Guardia's 1998 license was suspended on March 23, 1999; June 15, 1999; June 19, 1999; January 13, 2000; and January 26, 2000. Guardia's 1998 license was suspended again on March 22, 2002, and it remains so to this day.

Two Arrest Warrants Outstanding in the Name of Jose Daniel Guardia

13. In January 2000, Guardia was arrested in Arlington County, Virginia, for attempting to cash a check that he had stolen from an automobile dealership. When Guardia was arrested, he possessed a counterfeit resident alien card in the name of "Daniel L. Guardia," a valid Virginia identification card in the name of Jose Daniel Guardia, and a Virginia driver's license in the name "Demetria Heredia." All three documents bore pictures of Guardia. Guardia admitted to obtaining the counterfeit resident alien card and fraudulently obtaining the Heredia driver's license. Specifically, Guardia stated that Heredia was a friend who had left the country, and Guardia used Heredia's Virginia Operator's License to obtain a duplicate license with his picture on it at the DMV in Arlington. Guardia further stated that he presented the counterfeit resident alien card in the alias name of Daniel L. Guardia to obtain a construction job under the assumed name of Lopaz D. Guardia. Guardia failed to appear in court on the larceny charges, and a warrant was issued. The warrant is currently active.

14. In March 2000, an arrest warrant was issued in Arlington County for failure to appear in connection with a charge of driving on a suspended driver's license. GUARDIA was arrested in May 2000 and subsequently ordered to appear in court in July 2000 to answer the charge. When GUARDIA did not appear in court, a second arrest warrant was issued for failing to appear in court. The warrant is still active.

Multiple Identities and Multiple Identity Documents of Jose Daniel Guardia

_____15. As indicated above, Guardia admitted to fraudulently obtaining a Virginia driver's license in the name of Demetria Heredia, as well as possessing and using a counterfeit resident alien card in the name of Daniel L. Guardia. Further, Guardia admitted that he used an assumed name for employment - Lopaz D. Guardia.

16. On July 11, 2001, a "Ernesto Peredos" obtained a driver's license at the Franconia, Virginia, DMV based upon the alleged surrender of a fictitious Maryland license. Interestingly, no DL-1M exists for this permit. Although the license is in the name of "Ernesto Peredos," it bears the photograph of Guardia. On September 11, 2001, the address for Peredos was changed with DMV to a non-existent address. Also, in September 2001, "Ernesto Peredos" purchased a vehicle, which was registered with DMV.

17. On April 15, 2003, an "Ernesto Guardia Lopez" obtained a learner's permit at the Springfield DMV office. Although the permit is in the name of "Ernesto Guardia Lopez," it bears the photograph of Guardia. No DL-1M exists for this permit either. On June 3, 2003, "Ernesto Guardia Lopez" turned the permit into the DMV office in Franconia, Virginia, in return for a proper license. "Ernesto Guardia Lopez" was convicted of numerous traffic offenses, including two offenses in New York. Lopez' license was subsequently suspended on July 21, 2004, when "Ernesto Guardia Lopez" failed to attend required driver training as a result of the numerous traffic convictions. On August 7, 2004, "Lopez" was stopped by Virginia State Police and was cited for driving on a suspended license. "Lopez" did not appear for trial, and there is currently a misdemeanor warrant outstanding for failure to appear for trial in Spotsylvania County. Between May 2003 and November 2004, "Ernesto Guardia Lopez" purchased three vehicles, which were registered with DMV.

18. On August 23, 2004, a "Jaime Crespo Cabrera" obtained a Virginia driver's license at the Springfield DMV office based upon the alleged surrender of a fictitious Maryland license.

Although the license is in the name of “Jaime Crespo Cabrera,” it also bears the photograph of Guardia. No DL-1M exists for this permit as well. DMV records also show that a DMV employee recorded in the DMV computer system that Jaime Crespo Cabrera had surrendered a valid Florida license, bearing number C595458221652, as part of Cabrera’s application.

Fraud Facilitated Through Jose Daniel Guardia

19. Prior to meeting with Guardia, the undercover officer ("UC") reviewed known pictures of Jose Daniel Guardia. On March 11, 2005, the UC approached Guardia in Falls Church, Virginia. The UC told Guardia that he was an immigrant present in the United States illegally and needed Guardia’s assistance to obtain a driver’s license. Guardia indicated that he had a connection within DMV and agreed to help the UC. Guardia informed the UC that the cost for the license would be \$3,500, which the UC then paid Guardia in cash. Guardia told the UC that he needed the UC to provide him with the name, date of birth, and address the UC wanted the license to bear. The UC provided Guardia with the name “Mario Guerrero Lopez”(an alias); a date of birth of February 12, 1967; and the address of 1249 Virginia Avenue, Herndon, Virginia. Guardia then told the UC that the UC would have to go the Springfield DMV office the following Monday or Tuesday (March 14 and 15) to have his picture taken and to receive the license.

20. On March 15, 2005, Guardia informed the UC through an intermediary that the UC should go to the Springfield DMV office at approximately 11 a.m. the following day to receive his license. On March 16, 2005, the UC went into the lobby of the Springfield DMV office and sat down.

21. At no time from March 11-16, did the UC complete, sign or submit a DL-1M application for a driver’s license.

22. On March 16, 2005, Guardia instructed the UC to go to the Springfield DMV office to pick up the driver’s license. Guardia told the UC to sit near the camera station until his name

was called for his picture to be taken and his license issued. Guardia told the UC that the information for the driver's license had already been entered into the DMV system by a DMV employee.

23. DMV Investigators queried the DMV computer system and determined that the identity of Mario Guerrero Lopez had been entered in the DMV computer system on March 15, 2005, and that the system showed that Mario Guerrero Lopez had been issued a driver's license on that date. Oddly, however, there was no record of a picture having been taken of a Mario Guerrero Lopez for this license.

24. At approximately 11:00 am on March 16, 2005, the UC entered the Springfield DMV office, bypassed the teller lines and simply took a seat near the camera station. During this time, DMV Investigators were monitoring the DMV computer system. As they were monitoring, a DMV employee logged into the DMV computer system and issued a duplicate license to Mario Guerrero Lopez with the notation that the original license had been lost and that documentation had been presented to support the reissue.

25. Although the UC did not complete an application or provide any documentation to Guardia or anyone at the DMV, the DMV camera operator at the Springfield DMV office called the UC forward to the camera station and took the UC's picture. The DMV camera operator then called Mario Guerrero Lopez to pick up the license, and the UC retrieved the genuine Virginia driver's license. The license bore the name "Mario Guerrero Lopez; a date of birth of February 12, 1967; and an address of 1249 Virginia Avenue, Herndon, Virginia, even though the UC had not given that information to anyone at the DMV.

The Effect on Interstate Commerce

26. The issuance of driver's licenses in this case is in and affects interstate commerce for several reasons. As a general matter, driver's licenses are used to effect the motorized transport of people and goods throughout the United States. Because the country has no national

identification card, driver's licenses are also the primary means of personal identification in the United States. As a result, driver's licenses are used to facilitate the commerce of every day life, for example, to open bank accounts, to board airlines, to buy alcohol and cigarettes, and to fill out government forms. In addition, the case involved the purported surrender of valid driver's licenses from numerous states within the Union in an intentional effort to exploit interstate agreements designed to foster the efficient transfer of driving privileges between Virginia and other states. Finally, the printing machines, plastic cards, and laminates the DMV uses to produce Virginia driver's licenses, learner's permits, and identification cards are supplied to the DMV under contract by Digimarc ID Systems, L.L.C., of Burlington, Massachusetts. All of the printing machines, plastic cards, and laminates Digimarc provides to DMV are made in other states and shipped to the DMV in Virginia from Digimarc's warehouse in Fort Wayne, Indiana. The printing machines, for example, are made in Japan; the plastic cards in Massachusetts; and the laminates in Pennsylvania.

Conclusion

27. Based on the foregoing, I have probable cause to believe that from on or about March 11, 2005, through March 16, 2005, in Springfield, Virginia, in the Eastern District of Virginia, Jose Daniel Guardia knowingly conspired to produce Virginia driver's licenses without lawful authority when such production would be in or affect interstate or foreign commerce, in violation of 18 U.S.C. § 1028, subsections (a)(1), (b)(1)(A)(ii), (c)(3)(A), and (f).

Special Agent Pamela Bombardi
Federal Bureau of Investigation
United States Department of Justice

Subscribed and sworn before me on June _____, 2005.

United States Magistrate Judge
Alexandria, Virginia